

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-710*

13 **LOIS BELLE AMORFINI**
P.O. Box 550036
South Lake Tahoe, CA 96155

ACCUSATION

14 **Registered Nurse License No. 467227**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about August 31, 1991, the Board of Registered Nursing issued Registered
23 Nurse License Number 467227 to Lois Belle Amorfini ("Respondent"). Respondent's registered
24 nurse license expired on August 31, 2009.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

28 ///

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof . . .

14 6. Code section 2762 states, in pertinent part:

15 In addition to other acts constituting unprofessional conduct within the
16 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

17

18 (b) Use any controlled substance as defined in Division 10 (commencing
19 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
20 in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to
21 the public the practice authorized by his or her license.

22 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self administration of any of the substances described in subdivisions
23 (a) and (b) of this section, or the possession of, or falsification of a record pertaining
to, the substances described in subdivision (a) of this section, in which event the
24 record of the conviction is conclusive evidence thereof . . .

25 7. Code section 2765 states:

26 A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere made to a charge substantially related to the qualifications, functions and
duties of a registered nurse is deemed to be a conviction within the meaning of this
28 article. ~~The board may order the license or certificate suspended or revoked, or may~~
decline to issue a license or certificate, when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting
2 probation is made suspending the imposition of sentence, irrespective of a subsequent
3 order under the provisions of Section 1203.4 of the Penal Code allowing such person
4 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
5 the verdict of guilty, or dismissing the accusation, information or indictment.

6
7
8 8. Code section 490, subdivision (a), states:

9 In addition to any other action that a board is permitted to take against a
10 licensee, a board may suspend or revoke a license on the ground that the licensee has
11 been convicted of a crime, if the crime is substantially related to the qualifications,
12 functions, or duties of the business or profession for which the license was issued.

13 COST RECOVERY

14 9. Code section 125.3 provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 CONTROLLED SUBSTANCES

21 10. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety
22 Code section 11054, subdivision (d)(13).

23 11. "Restoril," a brand of temazepam, is a Schedule IV controlled substance, as
24 designated by Health and Safety Code section 11057, subdivision (d)(29).

25 12. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also known as
26 dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III controlled
27 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

28 13. "Opiates" are Schedule II controlled substances as designated by Health and Safety
Code section 11055, subdivisions (b)(1) and (c).

///

///

///

///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 14. Respondent is subject to disciplinary action pursuant to Code sections 2761,
4 subdivision (f), and 490, subdivision (a), in that on or about July 15, 2011, in El Dorado County
5 Superior Court, Case No. P11CRM0499, Respondent pled nolo contendere to violating Vehicle
6 Code section 23103, subdivision (a)/23103.5 ("wet/reckless" driving), a misdemeanor, a crime
7 substantially related to the qualifications, functions, and duties of a registered nurse. The
8 circumstances of the crime are as follows: On or about March 4, 2011, Officer R. E. with the
9 California Highway Patrol ("CHP") responded to the scene of a solo vehicle collision on US-50,
10 east of Ponderosa Road. While Officer R. E. was assisting with the investigation of the collision,
11 investigating officer D. H. had Respondent, the driver of the subject vehicle, perform field
12 sobriety tests. Respondent could not perform the tests as explained and demonstrated. Officer
13 D. H. placed Respondent under arrest for suspicion of driving under the influence of drugs and
14 being involved in a traffic collision, and transported her to the CHP area office. Later, Officer
15 R. E. conducted a Drug Recognition Evaluation of Respondent and observed that her eyes were
16 bloodshot and watery, her speech was slow and slurred, and she appeared sluggish. The officer
17 could also smell an odor of burnt marijuana on Respondent's person. Respondent admitted to the
18 officer that she had smoked approximately one joint (marijuana) the previous evening and had
19 consumed one 15 mg dose of Restoril and one Vicodin tablet. Respondent provided a blood
20 sample for drug testing. Respondent tested positive for marijuana, benzodiazepines, and opiates.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Use of Controlled Substances to an Extent or in a Manner**

23 **Dangerous or Injurious to Oneself and Others)**

24 15. Respondent is subject to disciplinary action pursuant to Code section 2761,
25 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
26 subdivision (b), in that on or about March 4, 2011, Respondent used controlled substances to an
27 extent or in a manner dangerous or injurious to herself and others, as set forth in paragraph 14
28 above.

1. **THIRD CAUSE FOR DISCIPLINE**

2. **(Conviction of a Crime Involving the Use of Controlled Substances)**

3. 16. Respondent is subject to disciplinary action pursuant to Code section 2761,
4. subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
5. subdivision (c), in that on or about July 15, 2011, Respondent was convicted of a criminal offense
6. involving the use of controlled substances, as set forth in paragraph 14 above.

7. **PRAAYER**

8. WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9. and that following the hearing, the Board of Registered Nursing issue a decision:

10. 1. Revoking or suspending Registered Nurse License Number 467227, issued to Lois
11. Belle Amorfini;

12. 2. Ordering Lois Belle Amorfini to pay the Board of Registered Nursing the reasonable
13. costs of the investigation and enforcement of this case, pursuant to Business and Professions
14. Code section 125.3;

15. 3. Taking such other and further action as deemed necessary and proper.

16.
17. DATED: MARCH 4, 2013

18. *for* Stacie Berns
19. LOUISE R. BAILEY, M.ED., RN
20. Executive Officer
21. Board of Registered Nursing
22. Department of Consumer Affairs
23. State of California
24. Complainant

25.
26.
27.
28. SA2012106807